

<b>IN THE MATTER OF</b>	*	<b>BEFORE THE MARYLAND</b>
<b>ARTHUR FINE, M.D.</b>	*	<b>STATE BOARD OF</b>
<b>Respondent</b>	*	<b>PHYSICIANS</b>
<b>License Number: D88804</b>	*	<b>Case Number: 2221-0061</b>

\* \* \* \* \*

**ORDER OF DEFAULT**

**PROCEDURAL BACKGROUND**

The Maryland Board of Physicians (the “Maryland Board”) received information that Arthur Fine, M.D., (the “Respondent”) License Number D88804, was disciplined by the West Virginia Board of Medicine (the “West Virginia Board”). In an Order dated September 4, 2020, the West Virginia Board reprimanded the Respondent and required the Respondent to complete certain coursework.

Based on the above referenced West Virginia Board sanction, the Maryland Board has grounds to charge the Respondent with violating the following provisions of the Maryland Medical Practice Act (the “Act”), under H. O. § 14-404(a):

- (a) Subject to the hearing provisions of § 14-405 of this subtitle, a disciplinary panel, on the affirmative vote of a majority of the quorum of the disciplinary panel, may reprimand any licensee, place any licensee on probation, or suspend or revoke a license if the licensee:
  - (21) Is disciplined by a licensing or disciplinary authority or convicted or disciplined by a court of any state or country or disciplined by any branch of the United States uniformed services or the Veteran’s Administration for an act that would be grounds for disciplinary action under this section,

Disciplinary Panel B (“Panel B”) of the Maryland Board has determined that the acts for which the Respondent was disciplined in West Virginia would be grounds for

disciplinary action under H.O. § 14-404(a). The grounds for disciplinary action under H.O. § 14-404(a) are as follows:

- (40) Fails to keep adequate medical records as determined by appropriate peer review.

On December 2, 2020, the Maryland Board attempted to notify the Respondent by regular mail at his address of record of its investigation of this matter and offered a Consent Order imposing a reciprocal sanction. The Respondent was further advised that if he did not respond to the Board's letter within ten business days, the Board would enter a default order, making the same findings and imposing the same sanctions as in the Consent Order. The Respondent did not respond.

On January 11, 2021, the Board emailed the Respondent at an email address provided on the Respondent's 2018 Maryland renewal application, requesting a response on or before January 15, 2021. The Respondent did not respond.

Attempts to reach the Respondent by telephone were also unsuccessful.

### **I. FINDINGS OF FACT**

Panel B makes the following findings of fact:

1. At all times relevant hereto, the Respondent was a physician licensed to practice medicine in the State of Maryland. The Respondent was initially licensed in Maryland on or about January 29, 2020.
2. The West Virginia Board entered a Consent Order on September 4, 2020 which reprimanded the Respondent and required the Respondent to complete certain coursework. A copy of the West Virginia Order is attached hereto.

3. In its September 4, 2020 Order, the West Virginia Board found that the Respondent prescribed controlled substances to two separate individuals on a regular basis without maintaining a medical record or documented treatment plan.

## **II. CONCLUSIONS OF LAW**

Based on the foregoing Findings of Fact, Panel B concludes as a matter of law that the disciplinary action taken by the West Virginia Board against the Respondent was for an act or acts that would be grounds for disciplinary action under Health Occ. § 14-404(a)(40) had those offenses been committed in this state, and would thus subject him to discipline under Health Occ. §14-404(a)(21). Panel B further concludes that the Respondent was in default with respect to answering the charges and has not contested them.

## **III. ORDER**

It is thus, by Panel B, hereby:

**ORDERED** that the Respondent is **REPRIMANDED**; and it is further

**ORDERED** that the Respondent shall comply with the terms and conditions of the September 4, 2020 West Virginia Board Consent Order; and be it further

**ORDERED** that the effective date of the Consent Order is the date the Consent Order is signed by the Executive Director of the Board or her designee. The Executive Director or her designee signs the Consent Order on behalf of the disciplinary panel which has imposed the terms and conditions of this Consent Order; and it is further

**ORDERED** that the Respondent is responsible for all costs incurred in fulfilling the terms and conditions of this Consent Order; and it is further

**ORDERED** that, if the Respondent allegedly fails to comply with any term or condition imposed by this Consent Order, the Respondent shall be given notice and an opportunity for a hearing. If the disciplinary panel determines there is a genuine dispute as to a material fact, the hearing shall be before an Administrative Law Judge of the Office of Administrative Hearings followed by an exceptions process before a disciplinary panel; and if the disciplinary panel determines there is no genuine dispute as to a material fact, the Respondent shall be given a show cause hearing before a disciplinary panel; and it is further

**ORDERED** that, after the appropriate hearing, if the disciplinary panel determines that the Respondent has failed to comply with any term or condition imposed by this Consent Order, the disciplinary panel may reprimand the Respondent, place the Respondent on probation with appropriate terms and conditions, or suspend Respondent's license with appropriate terms and conditions, or revoke the Respondent's license. The disciplinary panel may, in addition to one or more of the sanctions set forth above, impose a civil monetary fine on the Respondent; and it is further

**ORDERED** that this Consent Order is a public document. *See* Health Occ. §§ 1-607, 14-411.1(b)(2) and Gen. Prov. § 4-333(b)(6).

***Signature on File***

02/17/2021  
Date

Christine A. Farrelly  
Executive Director  
Maryland Board of Physicians

**NOTICE OF RIGHT TO PETITION FOR JUDICIAL REVIEW**

Pursuant to Md. Code Ann., Health Occ. § 14-408(b), the Respondent has the right to seek judicial review of this Order of Default. Any petition for judicial review shall be filed within thirty (30) days from the date of mailing of this Order of Default. The cover letter accompanying this Order indicates the date the decision is mailed. Any petition for judicial review shall be made as provided for in the Administrative Procedure Act, Md. Code Ann., State Gov't § 10-222 and Title 7, Chapter 200 of the Maryland Rules of Procedure.

If the Respondent files a petition for judicial review, the Board is a party and should be served with the court's process at the following address:

**Maryland State Board of Physicians  
Christine A. Farrelly, Executive Director  
4201 Patterson Avenue  
Baltimore, Maryland 21215**

Notice of any petition should also be sent to the Board's counsel at the following address:

**Noreen Rubin  
Assistant Attorney General  
Department of Health  
300 West Preston Street, Suite 302  
Baltimore, Maryland 21201**

**BEFORE THE WEST VIRGINIA BOARD OF MEDICINE**

**IN RE:**

**ARTHUR PHILIP FINE, MD**

**Complaint No. 19-123-W**

**CONSENT ORDER**

The West Virginia Board of Medicine (the "Board") and Arthur Philip Fine, MD ("Dr. Fine"), freely and voluntarily enter into the following Consent Order pursuant to West Virginia Code § 30-3-14, *et seq.*

**FINDINGS OF FACT**

The Board and Dr. Fine stipulate to the truthfulness and accuracy of the facts, as set forth herein below:

1. Dr. Fine holds a West Virginia medical license, License No. 26616, which was first issued in 2015. Dr. Fine's address of record with the Board is in Point Pleasant, West Virginia.
2. Dr. Fine also holds a license to practice medicine and surgery in Pennsylvania. Prior to relocating to West Virginia, Dr. Fine practiced medicine and surgery in Pittsburg, Pennsylvania.
3. Dr. Fine's self-identified area of specialty is general surgery.
4. On September 8, 2019, the Complaint Committee of the Board authorized Initiated Complaint No. 19-123-W against Dr. Fine based upon a third-party report from Dr. Fine's former employer, a West Virginia hospital, raising concerns regarding Dr. Fine's prescribing of controlled substances.
5. The hospital reported it had been alerted by local pharmacists of inappropriate prescribing patterns by Dr. Fine. The hospital's investigation indicated that over the preceding

twelve months, Dr. Fine prescribed hydrocodone and/or benzodiazepines to two separate individuals without appropriate documentation of a physician-patient relationship or other documentation required under the West Virginia Medical Practice Act. The hospital reported that it had met with Dr. Fine to discuss its concerns, and Dr. Fine acknowledged that there was no documentation of an ongoing treatment plan or of his prescribing for the two individuals.

6. The Complaint Committee's investigation of Complaint No. 19-123-W confirmed that Dr. Fine prescribed controlled substances to two separate individuals on a regular basis without maintaining a medical record or documented treatment plan for either patient. The two individuals were unaffiliated with Dr. Fine's practice at the West Virginia hospital.

7. During the investigation process, Dr. Fine indicated that the two individuals identified by the hospital were patients who established with him during his practice of medicine in Pennsylvania. While Dr. Fine acknowledged deficits in his medical recordkeeping with respect to the two patients, he contends that at the time of the prescribing in question he had legitimate physician patient relationships with these two individuals, identified herein as Patient A and Patient B.

8. Dr. Fine asserts that he had a long professional relationship with Patient A, who established as a patient with him in Pittsburg, Pennsylvania. Dr. Fine performed a laparoscopic cholecystectomy on Patient A for biliary dyskinesia. He subsequently also treated Patient A for severe anxiety. Dr. Fine continued to prescribe benzodiazepines for Patient A after he left his prior practice. Dr. Fine acknowledged that he had not physically seen or evaluated Patient A in eight years, but continued to issue "occasional" benzodiazepine prescriptions to the patient in West Virginia and without maintaining medical records of his ongoing treatment.

9. Dr. Fine is married to Patient B, however she was originally a co-worker and his patient in Pennsylvania. Patient B relocated to West Virginia approximately two years ago. Dr. Fine issued prescriptions to Patient B while she was his spouse for benzodiazepines and opioids. Dr. Fine asserts that he issued these prescriptions, in part, because Patient B had difficulty finding a provider. Dr. Fine acknowledges that he did not maintain a medical record of his ongoing treatment for Patient B. He also acknowledges that on at least two occasions he prescribed small, partial benzodiazepine prescriptions for Patient B after Patient B took more than the allotted amount of her benzodiazepine prescription and ran out prior to the refill date.

10. In the course of the Committee's investigation, Dr. Fine acknowledged deficits in his judgment and decision-making in his treatment of Patients A and B.

11. The Board and Dr. Fine voluntarily enter into this Consent Order to resolve Complaint No. 19-123-W, and to establish appropriate terms and conditions upon Dr. Fine's practice of medicine in West Virginia.

#### **CONCLUSIONS OF LAW**

The Board and Dr. Fine stipulate to the following conclusions of law:

1. Dr. Fine's license to practice medicine and surgery in the state of West Virginia is subject to regulation and discipline by the West Virginia Board of Medicine, the "regulatory and disciplinary body for the practice of medicine and surgery" for physicians, podiatrists and physician assistants in West Virginia. W.Va. Code § 30-3-5 and § 30-3-7(a).

2. The Board has a mandate to ensure "a professional environment that encourages the delivery of quality medical services" to protect the public interest. W.Va. Code § 30-3-2.



3. The West Virginia Medical Practice Act sets forth conduct which may render an individual unqualified for licensure or subject to discipline or other restrictions upon licensure. W.Va. Code § 30-3-14. Pursuant to W.Va. Code § 30-1-8(c), the Board has promulgated legislative rules that “delineate conduct, practices or acts which, in the judgment of the board, constitute professional negligence, a willful departure from accepted standards of professional conduct and/or which may render an individual unqualified or unfit for licensure, registration or other authorization to practice.” W. Va. Code R. § 11-1A-12.

4. Probable cause may exist to substantiate disciplinary charges against Dr. Fine pursuant to the West Virginia Medical Practice Act and the Board’s legislative rules including, but not limited to, the following provisions:

- a. W. Va. Code § 30-3-14(c)(17), W. Va. Code R. § 11-1A-12.1.e and 12.1.j, and W. Va. Code R. § 11-1A-12.2.d, relating to dishonorable, unethical or unprofessional conduct; and/or
- b. W. Va. Code § 30-3-14(c)(17) and/or W. Va. Code R. § 11-1A-12.1.x, relating to engaging in malpractice or the failure to practice medicine with that level of care, skill and treatment which is recognized by a reasonable, prudent, physician engaged in the same or a similar specialty as being acceptable under similar conditions and circumstances; and/or
- c. W. Va. Code § 30-3-14(c)(13) and W. Va. Code R. § 11-1A-12.2.a, relating to prescribing a controlled substance other than in good faith and in a therapeutic manner in accordance with accepted medical standards and in the course of the physician's professional practice; and/or

- d. W. Va. Code § 30-3-14(c)(11) and W. Va. Code R. §§ 11-1A-12.1.u and 12.1.jj, relating to the failure to keep written records justifying the course of treatment of a patient.

5. It is appropriate and in the public interest to waive the commencement of proceedings against Dr. Fine and to proceed without the filing of charges, or a formal Complaint and Notice of Hearing, subject to compliance by Dr. Fine with the provisions of this Consent Order.

6. This Consent Order sets forth reasonable and appropriate discipline upon Dr. Fine's West Virginia medical license in the form of a public reprimand and additional continuing medical education.

### CONSENT

By signing his name to this Consent Order, Arthur Philip Fine, MD, acknowledges that he understands and agrees with the following:

1. Dr. Fine has read and understands this entire Consent Order;
2. Dr. Fine agrees that he has been given adequate time and opportunity to review and consider the terms set forth in this Consent Order;
3. Dr. Fine understands that he has the right to legal representation in this matter, at his own expense, and that has been afforded adequate time and opportunity to consult with an attorney regarding the legal effect of this Consent Order;
4. Dr. Fine understands that this Consent Order is a legally binding Order of the West Virginia Board of Medicine that affects his rights and privileges;

5. Dr. Fine acknowledges that he is fully aware that, without his consent, no permanent legal action may be taken against him except after a hearing held in accordance with West Virginia Code § 30-3-14(h) and § 29A-5-1, *et seq.*;

6. Dr. Fine is aware of his legal rights in this matter, in addition to his right to be represented by counsel at his own expense, including: the right to a formal hearing, after reasonable notice, before the West Virginia Board of Medicine on the disciplinary charges before the Board; the right to confront and cross-examine witnesses against him; the right to present evidence and testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to appeal under Chapter 29A of the West Virginia Code in the event of a final order or decision adverse to him;

7. Dr. Fine knowingly and voluntarily waives all such rights, and agrees to the entry of this Consent Order relative to his practice of medicine in the state of West Virginia;

8. Dr. Fine acknowledges that if he violates any of the terms of this Consent Order, further action may be taken against his license by the Board, as permitted by law; and

9. Dr. Fine understands that this Order is a public document which will be available for public inspection, will be accessible through the Board's website, and will be a permanent part of his historical file with the Board. Matters contained herein will be reported to the National Practitioner Data Bank, and may be reported to other jurisdictions, the Federation of State Medical Boards and as otherwise required by law.

### **ORDER**

WHEREFORE, on the basis of the foregoing stipulated Findings of Fact and Conclusions of Law, and with the consent of Dr. Fine, the West Virginia Board of Medicine hereby **ORDERS** as follows:

1. Dr. Fine is hereby **PUBLICLY REPRIMANDED** for his improper prescribing to two patients without maintaining medical records.
2. *Training and Education.* At his own expense, Dr. Fine shall enroll in and successfully complete **Case Western Reserve University's Intensive Course in Controlled Substance Prescribing**, including all pre-course and post-course requirements. To satisfy this requirement, Dr. Fine must complete all pre-course requirements and virtually attend and successfully complete this course **on November 9-11, 2020**.
3. *Notification of Enrollment.* Dr. Fine shall provide the Board with a copy of his enrollment confirmation from the CME provider on or before **October 1, 2020**, and he shall submit acceptable documentation from the CME provider of his successful completion of the course to the Board within **ten days** of his completion of the course.
4. *Successful Completion of CME.* Successful completion of the CME course required by this Order shall be determined solely by the CME provider. A determination by the CME provider that Dr. Fine has failed to successfully complete any program requirement, including pre or post program requirements, shall constitute clear and convincing evidence for the Board to take further action with respect to Dr. Fine's West Virginia medical license, including the imposition of additional discipline.
5. *Limitation on Use of CME hours.* Dr. Fine may not utilize any CME hours he earns pursuant to his participation in the CME course required by this Order to satisfy his biennial continuing medical education obligation pursuant to W. Va. Code R. § 11-6-3.1 or any superseding enactment of the Board's legislative rule governing continuing medical education requirements and reporting for physicians.

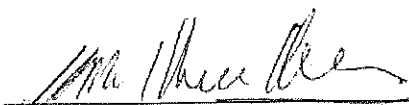
6. Dr. Fine shall at all times fully comply with all of the professional practice requirements of the West Virginia Medical Practice Act as set forth in W. Va. Code § 30-3-1 *et seq.*, and in the Board's legislative rules, including but not limited to W. Va. Code R. § 11-1A-1 *et seq.* Dr. Fine shall also fully comply with his legal duty to access the West Virginia Controlled Substances Monitoring Database in accordance with W. Va. Code §60A-9-5a.

7. Dr. Fine agrees that he may be subject to additional disciplinary processes, as permitted by law, for any violation of the terms of this Consent Order.

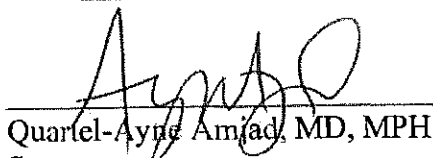
8. This Consent Order shall be deemed entered on the date that this Order, with all required signatures affixed hereupon, is received in the Board's 101 Dee Drive, Charleston, West Virginia, office. The Executive Director of the West Virginia Board of Medicine is hereby authorized to denote the date of entry on behalf of the Board in accordance with this paragraph.

ENTERED ON: September 4, 2020

WEST VIRGINIA BOARD OF MEDICINE

  
Kishore K. Challa, MD, FACC  
President

Date: sep 4 2020

  
Quartel-Ayne Amjad, MD, MPH  
Secretary

Date: 8/31/2020


ACCEPTANCE

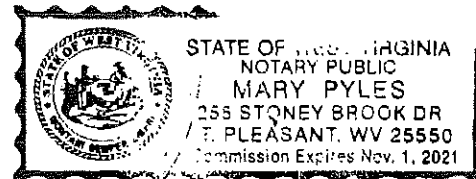
I, ARTHUR PHILIP FINE, MD, HAVE READ AND UNDERSTAND THE FOREGOING CONSENT ORDER. I HAVE BEEN GIVEN SUFFICIENT TIME AND OPPORTUNITY TO CONSIDER THIS CONSENT ORDER, AND I UNDERSTAND THE EFFECT IT WILL HAVE UPON MY LICENSE TO PRACTICE MEDICINE AND SURGERY IN WEST VIRGINIA.

BY SIGNING THIS CONSENT ORDER, I HAVE WAIVED CERTAIN RIGHTS, BUT I DO SO KNOWINGLY AND VOLUNTARILY, AND I DO NOT WISH TO ASSERT THOSE RIGHTS IN THIS MATTER.

I UNDERSTAND THAT I HAVE THE RIGHT TO LEGAL COUNSEL, AND THAT I HAVE BEEN PROVIDED WITH AMPLE TIME TO SEEK LEGAL ADVICE REGARDING MY ACCEPTANCE OF THIS CONSENT ORDER FROM AN ATTORNEY.

I AM SIGNING THIS CONSENT ORDER VOLUNTARILY, AND I UNDERSTAND THE POTENTIAL CONSEQUENCES OF VIOLATING THIS CONSENT ORDER.

  
\_\_\_\_\_  
Arthur Philip Fine, MD



Date: 21 AUG 2020

STATE OF West Virginia

COUNTY OF Mason, to-wit:

I, Mary Pyles, a Notary Public for said county and state do hereby certify that Arthur Philip Fine, MD, whose name is signed herein above has this day acknowledged the same before me.

Given under my hand this 21<sup>st</sup> day of August, 2020.

My Commission expires Nov 21, 2021

Mary Pyles  
\_\_\_\_\_  
Notary Public



# State of West Virginia *Board of Medicine*

KISHORE K. CHALLA, MD, FACC  
PRESIDENT

QUARTEL-AYNE AMJAD, MD, MPH  
SECRETARY

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ASHISH P. SHETH, MD  
VICE PRESIDENT

MARK A. SPANGLER, MA  
EXECUTIVE DIRECTOR

December 3, 2020

**VIA US MAIL**

Arthur Philip Fine, MD  
1915 Marquette Avenue  
Point Pleasant, WV 25550

**Re: West Virginia Board of Medicine  
Complaint No. 19-123-W**

Dear Dr. Fine:

On September 4, 2020, you entered into a Consent Order with the West Virginia Board of Medicine that required you to enroll and successfully complete Case Western Reserve University's *Intensive Course in Controlled Substance Prescribing* on November 9-11, 2020. The Board has received a letter from Case Western Reserve University confirming that you have successfully participated and completed the course as required by the Consent Order.

In accordance with the statute, the Consent Order, with a copy of this letter attached, remains a permanent part of your historical record maintained by the Board.

Should you have any questions or concerns please feel free to contact me at (304) 558-2921 Ext. 49862.

Sincerely,

A handwritten signature in cursive script that reads "Mark A. Spangler".

Mark A. Spangler

MAS/jal